

Notice of Allowability

Application No.

09/619,255

Examiner

Mark Fadok

Applicant(s)

LIN-HENDEL, CATHERINE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Board decision dated 7/27/2007.
2. ☒ The allowed claim(s) is/are 1-10 and 12-22.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 8/30/2007
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Response to Board of Appeals Decision Rendered 5/30/2006

The examiner is in receipt of the Board of Appeals reversal of the examiners answer mailed 7/27/2007. The examiner has carefully considered the Boards position and provides the following reasons for allowance based on the decision:

Rejoinder

Claim 22 directed to a species of the instant invention was restricted in office action 10/24/2005. Pursuant to the procedures set forth in MPEP § 821.04(B), claim 22, directed to the a species, previously withdrawn from consideration as a result of a restriction requirement, is hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on 10/24/2004 is hereby withdrawn.** In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Allowable Subject Matter

Claims 1-10 and 12-22 are allowed.

The following is an examiner's statement of reasons for allowance of independent claims 1:

Regarding claim 1

The application is allowable for the reasons set forth on pages 11-13 of the decision by The Board of Patent Appeals and Interferences, appeal No 2007-1814, which is hereby incorporated by reference. As noted therein, claim 1 is interpreted as invoking USC 112 6th paragraph and as such "giving the claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art, we therefore construe "means for searching in and retrieving data from at least one database using predetermined intelligence rules together with said user profile to determine said recommendations and said selections of said merchandise and accessories to said merchandise" to mean a wizard or equivalent structure for searching in and retrieving data from at least one database using (1) a user profile created from preferences and answers received from the user to a plurality of questions and (2) predetermined intelligence rules. Because of the disclosed structure, the wizard, makes on-line merchandise recommendations and computer assisted selections tailored to each shopper's personal needs, tastes, and applications using

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interactive, rule-driven, intelligent databases, algorithm, and software, (Finding of Fact 4)".

Further as stated on page 8 of the decision the combination of Danish, Weaver and Hashimoto "...does not disclose means for receiving preferences and answers to a plurality of questions from a user to create a user profile, nor does it teach a Wizard for using intelligence rules and a user profile to determine recommendations and selections of merchandise and accessories to the merchandise".

Discussion of most relevant art:

US Patents and PG-PUB

(i) US Patent (6,404,426) to Weaver discloses a method for arriving at a product selection. Weaver, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(ii) US Patent (5,729,699) to Hashimoto et al discloses a method for displaying results of a search. Hashimoto, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(iii) US Patent (6,327,588) to Danish et al discloses a method for executing a guided parametric search. Danish, however fails to anticipate or render the application's

above-mentioned limitation(s) obvious.

(iv) US Patent (6,397,212) to Biffar et al discloses a self-learning search product that utilizes personal profiles or the user and predetermined intelligence rules. Biffar, however fails to anticipate or render the application's above-mentioned limitation(s) obvious, because it fails to disclose a wizard guide selectively and optionally selected by the user.

Foreign Patent Documents

(iii) EP 1050830 A2 to Xerox teaches a method for collaboratively ranking search results using group profiles. Xerox, however, fails to anticipate or render the application's above-mentioned limitation(s) obvious.

Non-Patent Literature

(iv) Basch, Reva, "searching in plain English", The Gale Group, dated April 1994, article teaches how knowledge based searches are becoming popular, however, the Basch article fails to anticipate or render the application's above-mentioned limitation(s) obvious.

Any comments considered necessary by the applicant must be submitted no later

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than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

(571) 273-8300 [Official communications; including

After Final communications labeled

"Box AF"]

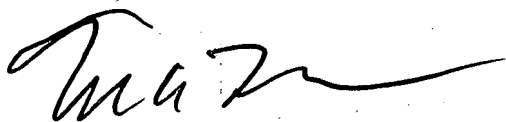
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(571) 273-6755 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a stylized, flowing script.

Mark Fadok

Primary Examiner